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TAGS: [KTIP](#) [ELAB](#) [KCRM](#) [KPAO](#) [KWMN](#) [PGOV](#) [PHUM](#) [PREL](#) [SMIG](#) [BM](#)
SUBJECT: BURMA -- 2009 TIP REPORT: PRESS GUIDANCE AND
DEMARCHE

REF: A. (A) STATE 59732
[1](#)B. (B) STATE 005577

[1](#)1. This is an action cable; see paras 5 through 7 and 10.

[1](#)2. On June 16, 2009, at 10:00 a.m. EDT, the Secretary will release the 2009 Trafficking in Persons (TIP) Report at a press conference in the Department's press briefing room. This release will receive substantial coverage in domestic and foreign news outlets. Until the time of the Secretary's June 16 press conference, any public release of the Report or country narratives contained therein is prohibited.

[1](#)3. The Department is hereby providing Post with advance press guidance to be used on June 16 or thereafter. Also provided is demarche language to be used in informing the Government of Burma of its tier ranking and the TIP Report's imminent release. The text of the TIP Report country narrative is provided, both for use in informing the Government of Burma and in any local media release by Post's public affairs section on June 16 or thereafter. Drawing on information provided below in paras 8 and 9, Post may provide the host government with the text of the TIP Report narrative no earlier than 1200 noon local time Monday June 15 for WHA, AF, EUR, and NEA countries and OOB local time Tuesday June 16 for SCA and EAP posts. Please note, however, that any public release of the Report's information should not/precede the Secretary's release at 10:00 am EDT on June 16.

[1](#)4. The entire TIP Report will be available on-line at www.state.gov/g/tip shortly after the Secretary's June 16 release. Hard copies of the Report will be pouched to posts in all countries appearing on the Report. The Secretary's statement at the June 16 press event, and the statement of and fielding of media questions by G/TIP's Director and Senior Advisor to the Secretary, Ambassador-at-Large Luis CdeBaca, will be available on the Department's website shortly after the June 16 event. Ambassador de Baca will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

[1](#)5. Action Request: No earlier than 12 Noon local time on Monday June 15 for WHA, AF, EUR, and NEA posts and OOB local time on Tuesday June 16 for SCA and EAP posts, please inform the appropriate official in the Government of Burma of the June 16 release of the 2009 TIP Report, drawing on the points in para 9 (at Post's discretion) and including the text of the country narrative provided in para 8. For countries where the State Department has lowered the tier ranking, it is particularly important to advise governments prior to the Report being released in Washington on June 16.

[1](#)6. Action Request continued: Please note that, for those countries which will not receive an "action plan" with specific recommendations for improvement, posts should draw host governments' attention to the areas for improvement identified in the 2009 Report, especially highlighted in the "Recommendations" section of the second paragraph of the narrative text. This engagement is important to establishing the framework in which the government's performance will be

judged for the 2010 Report. If posts have questions about which governments will receive an action plan, or how they may follow up on the recommendations in the 2009 Report, please contact G/TIP and the appropriate regional bureau.

¶7. Action Request continued: On June 16, please be prepared to answer media inquiries on the Report's release using the press guidance provided in para 11. If Post wishes, a local press statement may be released on or after 10:30 am EDT June 16, drawing on the press guidance and the text of the TIP Report's country narrative provided in para 8.

¶8. Begin Final Text of Burma,s country narrative in the 2009 TIP Report:

BURMA (TIER 3)

Burma is a source country for women, children, and men trafficked for the purpose of forced labor and commercial sexual exploitation. Burmese women and children are trafficked to Thailand, the People,s Republic of China (PRC), Bangladesh, India, Pakistan, Malaysia, and South Korea for commercial sexual exploitation, domestic servitude, and forced labor. Some Burmese migrating abroad for better economic opportunities wind up in situations of forced or bonded labor or forced prostitution. Burmese children in Thailand are subjected to conditions of forced labor as hawkers, beggars, and for work in shops, agriculture, fish processing, or other small-scale industries. Women are trafficked to China for forced marriage and to Malaysia and China for commercial sexual exploitation. Men and women are trafficked to Thailand and Malaysia for forced labor. Some trafficking victims transit Burma from Bangladesh to Malaysia, and from the PRC to Thailand and beyond.

Trafficking within Burma is a significant phenomenon. Villagers from rural areas move to urban centers and economic hubs along the borders with Thailand and China for labor in industrial zones and agricultural estates, and are trafficked into conditions of forced labor and commercial sexual exploitation. Trafficking in girls for the purpose of prostitution persisted as a major problem, particularly in urban areas. Burma is a destination country for child sex tourism. Government and military use of forced labor remained widespread, reportedly targeting members of ethnic minority groups. Urban poor and street children in Rangoon and Mandalay are at risk of involuntary conscription as child soldiers by the Burmese junta. Thousands of children are forced to serve in Burma,s national army as desertions of men in the army rise. Some children were threatened with jail if they did not agree to join the army. Poor villagers in rural regions must provide corvee labor on demand as a tax imposed by authorities. Ethnic insurgent groups also used compulsory labor of adults and engaged in the unlawful recruitment of child soldiers. After Cyclone Nargis devastated Burma in May 2008, there were anecdotal reports of trafficking of cyclone victims to other parts of Burma and to neighboring countries. There was also a dramatic increase in the number of unverified reports of forced labor, including of children, and trafficking in persons after the cyclone. The military junta,s gross economic mismanagement, human rights abuses, and its continued widespread use of forced labor are among the top causal factors for Burma,s significant trafficking problem.

In some areas, including in particular the international trafficking of women and children for commercial sexual exploitation, the Government of Burma is making significant efforts. Available data indicated an increase in law enforcement efforts in 2008, a considerable increase in budget allocation for anti-trafficking activities, and the establishment of three anti-trafficking police units. Overall, however, serious problems remain, and in some areas, most notably in the area of forced labor, the Government of Burma is not making significant efforts to comply with the minimum standards for the elimination of trafficking,

warranting a ranking of Tier 3. Specifically, military and civilian officials remain directly involved in forced labor and the unlawful conscription of child soldiers, with reported cases of child soldiers increasing annually. Furthermore, the regime has not yet adequately addressed the phenomena of trafficking for commercial sexual exploitation and labor exploitation within the country.

Recommendations for Burma: Criminally prosecute military and civilian officials responsible for forced labor and the conscription of child soldiers; improve efforts to cease the practice of forced labor of Burmese citizens by civilian and military entities; continue to increase prosecutions and convictions for internal trafficking; continue collaboration in addressing forced labor and sex trafficking with international NGOs and international organizations in a transparent and accountable manner; complete development and implementation of formal victim identification and referral procedures to identify victims of trafficking; undertake additional initiatives to prevent trafficking, such as instituting a public awareness campaign to warn at-risk populations of the dangers of trafficking; and focus more attention on internal trafficking of females for commercial sexual exploitation.

Prosecution

The Burmese junta demonstrated a degree of progress to combat transnational trafficking throughout the past year. There were limited efforts to investigate or prosecute cases of internal trafficking. While the government administratively punished perpetrators of some trafficking crimes, criminal punishment remained weak. Burma prohibits sex and labor trafficking through its 2005 Anti-Trafficking in Persons Law, which prescribes criminal penalties that are sufficiently stringent and commensurate with those prescribed for rape. Military recruitment of children under 18 is prohibited by Armed Forces Notification number 13/73 from 1974, but the military has not criminally prosecuted under the Penal Code those who recruit child soldiers, instead reportedly sanctioning them with administrative penalties. The government also failed to criminally punish civilian or military perpetrators of forced labor. Laws prohibiting child prostitution were also not enforced effectively. The Burmese junta rules arbitrarily through its unilaterally imposed laws, but rule of law is absent, as is an independent judiciary that would respect trafficking victims, rights and provide fair justice. The Burmese regime reported that it investigated and prosecuted 127 cases of trafficking, identifying and convicting 342 suspected traffickers in 2008.

However, court proceedings are not open and lack due process for defendants. In the past, data claimed to represent trafficking in persons issues has often included individuals caught trying to leave Burma without permission. While the Burmese regime has been known to conflate irregular migration with trafficking, leading to the punishment of consensual emigrants and those who assist them to emigrate, during the reporting period, the police made some efforts to exclude smuggling cases from human trafficking figures. If persons are internally trafficked for labor by a high-level official or well-connected individual, the police can be expected to self-limit their investigations, even if no political pressure has been overtly employed. Burmese law enforcement officers joined PRC counterparts to jointly investigate 11 cross-border trafficking cases. The Ministry of Home Affairs continued to maintain that there was no complicity of regime officials in trafficking; however, corruption among local government officials was widespread, and officials frequently engage in corrupt practices with impunity. During the year, the regime reported two officials were prosecuted for their involvement in trafficking cases, and sentenced to three years in prison. The Ministry of Labor in 2008 issued licenses to 108 companies to recruit workers for overseas jobs. Since 2008, the Ministry of Labor cancelled the licenses of 14 companies for legal violations. In 2008, the ILO Liaison Officer accepted 64 formal complaints and submitted all of them to the Burmese government for action. In 2008, the government did not criminally prosecute any

cases of forced labor; instead, it dismissed one civilian administrative official who subjected others to forced labor, reprimanded seven others, and reprimanded 21 military officials for subjecting others to forced labor. Three of the 64 cases referred by the ILO are still pending.

Protection

The Burmese regime made some efforts to protect repatriated victims of cross-border sex trafficking, but exhibited limited efforts to protect victims of forced labor and internal sex trafficking exploited within Burma's borders. Over the past year, the Burmese government reportedly assisted 232 victims, 133 of whom were identified and repatriated by the Thai government, 98 of whom were identified and repatriated by PRC authorities, and one who was identified by Jamaican authorities. The government reportedly identified 14 Chinese women and girls who were being trafficked into Thailand for sexual exploitation. The Burmese regime does not have in place formal victim identification procedures to identify victims of trafficking among vulnerable groups. In forced labor cases, victims were sometimes harassed, detained, or otherwise penalized for making accusations against the officials who subjected them into forced labor. In the past, the junta has filed charges against those who assist claimants of forced labor, including their legal counsel and witnesses, though no such cases were reported during the year. Such harassment and punishment discourages others from coming forward to report abuses. Burmese and foreign trafficking victims stayed in government-run shelter facilities for up to one month before being returned to their home communities. The regime does not provide legal assistance to victims. The government encourages internationally trafficked victims to assist in investigations and prosecutions. The government extended for an additional year the 2007 Supplementary Understanding on Forced Labor, which establishes a mechanism for forced labor complaints and provides protections for those who reported cases to the ILO. In 2008, the junta showed some cooperation with international organizations on the issue of the military's conscription of children, resulting in the return of 21 children to their families. However, the regime did not permit UNICEF access to children who were released for follow-up purposes. Although the recruiting officers were sanctioned with administrative punishments, the military has not criminally prosecuted the perpetrators of child soldier recruitment under applicable Burmese law.

Prevention

The government increased efforts to prevent international trafficking in persons, but made only limited efforts to address the trafficking that occurs within the country's borders. The National Police conducted 238 awareness campaigns reaching over 25,000 people. The Burmese junta reported that it significantly increased spending in 2008 on anti-trafficking efforts, including prevention, educational awareness, funding of additional anti-trafficking police, and protection efforts. Police officials established three new anti-trafficking units, including two in the Irrawaddy Delta in an attempt to deter trafficking cases. The government also established an anti-trafficking office within the Border Liaison Office along the Burma-China border in Kachin State. During the year, the government worked with an NGO and the UN to train officials on differences between smuggling and trafficking, and about Burma's trafficking law and its enforcement. The Ministry of Home Affairs in collaboration with an international organization conducted awareness raising campaigns at bus terminals, targeting drivers, merchants, ticket sellers, and local police. The government posted billboards and notices at hotels aimed at tourists to warn about trafficking.

19. Post may wish to deliver the following points, which offer technical and legal background on the TIP Report process, to the host government as a non-paper with the above TIP Report country narrative:

(begin non-paper)

-- The U.S. Congress, through its passage of the 2000 Trafficking Victims Protection Act, as amended (TVPA), requires the Secretary of State to submit an annual Report to Congress. The goal of this Report is to stimulate action and create partnerships around the world in the fight against modern-day slavery. The USG approach to combating human trafficking follows the TVPA and the standards set forth in the Protocol to Prevent, Suppress and Punish Trafficking in Persons, Especially Women and Children, supplementing the United Nations Convention against Transnational Organized Crime (commonly known as the "Palermo Protocol"). The TVPA and the Palermo Protocol recognize that this is a crime in which the victims, labor or services (including in the "sex industry") are obtained or maintained through force, fraud, or coercion, whether overt or through psychological manipulation. While much attention has focused on international flows, both the TVPA and the Palermo Protocol focus on the exploitation of the victim, and do not require a showing that the victim was moved.

-- Recent amendments to the TVPA removed the requirement that only countries with a "significant number" of trafficking victims be included in the Report. Beginning with the 2009 TIP Report, countries determined to be a country of origin, transit, or destination for victims of severe forms of trafficking are included in the Report and assigned to one of three tiers. Countries assessed as meeting the "minimum standards for the elimination of severe forms of trafficking" set forth in the TVPA are classified as Tier 1. Countries assessed as not fully complying with the minimum standards, but making significant efforts to meet those minimum standards are classified as Tier 2. Countries assessed as neither complying with the minimum standards nor making significant efforts to do so are classified as Tier 3.

-- The TVPA also requires the Secretary of State to provide a "Special Watch List" to Congress later in the year. Anti-trafficking efforts of the countries on this list are to be evaluated again in an Interim Assessment that the Secretary of State must provide to Congress by February 1 of each year. Countries are included on the "Special Watch List" if they move up in "tier" rankings in the annual TIP Report -- from 3 to 2 or from 2 to 1) or if they have been placed on the Tier 2 Watch List.

-- Tier 2 Watch List consists of Tier 2 countries determined: (1) not to have made "increasing efforts" to combat human trafficking over the past year; (2) to be making significant efforts based on commitments of anti-trafficking reforms over the next year, or (3) to have a very significant number of trafficking victims or a significantly increasing victim population. As indicated in reftel B, the TVPRA of 2008 contains a provision requiring that a country that has been included on Tier 2 Watch List for two consecutive years after the date of enactment of the TVPRA of 2008 be ranked as Tier 3. Thus, any automatic downgrade to Tier 3 pursuant to this provision would take place, at the earliest, in the 2011 TIP Report (i.e., a country would have to be ranked Tier 2 Watch List in the 2009 and 2010 Reports before being subject to Tier 3 in the 2011 Report). The new law allows for a waiver of this provision for up to two additional years upon a determination by the President that the country has developed and devoted sufficient resources to a written plan to make significant efforts to bring itself into compliance with the minimum standards.

-- Countries classified as Tier 3 may be subject to statutory restrictions for the subsequent fiscal year on non-humanitarian and non-trade-related foreign assistance and, in some circumstances, withholding of funding for participation by government officials or employees in educational and cultural exchange programs. In addition, the President could instruct the U.S. executive directors to international financial institutions to oppose loans or other utilization of funds (other than for humanitarian, trade-related or certain types of development assistance)

with respect to countries on Tier 3. Countries classified as Tier 3 that take strong action within 90 days of the Report's release to show significant efforts against trafficking in persons, and thereby warrant a reassessment of their Tier classification, would avoid such sanctions. Guidelines for such actions are in the DOS-crafted action plans to be shared by Posts with host governments.

-- The 2009 TIP Report, issuing as it does in the midst of the global financial crisis, highlights high levels of trafficking for forced labor in many parts of the world and systemic contributing factors to this phenomenon: fraudulent recruitment practices and excessive recruiting fees in workers, home countries; the lack of adequate labor protections in both sending and receiving countries; and the flawed design of some destination countries, "sponsorship systems" that do not give foreign workers adequate legal recourse when faced with conditions of forced labor. As the May 2009 ILO Global Report on Forced Labor concluded, forced labor victims suffer approximately \$20 billion in losses, and traffickers, profits are estimated at \$31 billion. The current global financial crisis threatens to increase the number of victims of forced labor and increase the associated "cost of coercion."

-- The text of the TVPA and amendments can be found on website www.state.gov/g/tip.

-- On June 16, 2009, the Secretary of State will release the ninth annual TIP Report in a public event at the State Department. We are providing you an advance copy of your country's narrative in that report. Please keep this information embargoed until 10:00 am Washington DC time June 16. The State Department will also hold a general briefing for officials of foreign embassies in Washington DC on June 17 at 3:30 pm EDT.

(end non-paper)

¶10. Posts should make sure that the relevant country narrative is readily available on or through the Mission's web page in English and appropriate local language(s) as soon as possible after the TIP Report is released. Funding for translation costs will be handled as it was for the Human Rights Report. Posts needing financial assistance for translation costs should contact their regional bureau's EX office.

¶11. The following is press guidance provided for Post to use with local media.

Q1: Why was Burma again given a ranking of Tier 3?

A: Overall, there are serious trafficking in persons problems in Burma and in some of these areas, the Government of Burma is not making significant efforts to comply with the minimum standards for the elimination of trafficking, warranting a ranking of Tier 3. Specifically, military and civilian officials remain directly involved in forced labor and the unlawful conscription of child soldiers, with reported cases of child soldiers increasing annually. Furthermore, the regime has not yet adequately addressed the phenomena of trafficking for commercial sexual exploitation and labor exploitation within the country.

Q2: What progress has Burma made in the past year?

A: In some areas, including in particular the international trafficking of women and children for commercial sexual exploitation, the Government of Burma is making significant efforts against trafficking. Available data indicated an increase in law enforcement efforts in 2008, a considerable increase in budget allocation for anti-trafficking activities, and the establishment of three anti-trafficking police units.

Q3: What efforts does Burma need to take to improve its fight against trafficking in persons?

A: The Burmese government could: criminally prosecute military and civilian officials responsible for forced labor and the conscription of child soldiers; improve efforts to cease the practice of forced labor of Burmese citizens by civilian and military entities; continue to increase prosecutions and convictions for internal trafficking; continue collaboration in addressing forced labor and sex trafficking with international NGOs and international organizations in a transparent and accountable manner; complete development and implementation of formal victim identification and referral procedures to identify victims of trafficking; undertake additional initiatives to prevent trafficking, such as instituting a public awareness campaign to warn at-risk populations of the dangers of trafficking; and focus more attention on internal trafficking of females for commercial sexual exploitation.

Q4: Have there been instances of trafficking in persons as a result of Cyclone Nargis?

A: After Cyclone Nargis devastated Burma in May 2008, there were anecdotal reports of trafficking of cyclone victims to other parts of Burma and to neighboring countries. There was also a dramatic increase in the number of unverified reports of forced labor, including of children, and trafficking in persons after the Cyclone.

¶12. The Department appreciates posts, assistance with the preceding action requests.

CLINTON